

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
NOV 10 2009

Clerk

CIV. 07-4013

JAMES DEAN VAN WYHE,

Plaintiff,

VS.

JUDGMENT

TIM REISCH; DOUGLAS WEBER;
JENNIFER WAGNER; H. VELD; CBM
FOOD SERVICE; TROY PONTO; and
KEITH DITMANSON,

Defendants.

On February 13, 2008, the Court issued a Memorandum Opinion and Order granting Defendants' motion for summary judgment except as to Plaintiff James Van Wyhe's claim for nominal damages against Tim Reisch, Douglas Weber, and Jennifer Wagner in their official capacities under the Religious Land Use and Institutionalized Persons Act. On appeal, the Eighth Circuit Court of Appeals entered judgment reversing and remanding for proceedings consistent with its opinion, in which the panel concluded that Van Wyhe's claim for money damages under RLUIPA was barred by sovereign immunity, and that "[n]o claims survive in Van Wyhe's suit." Although this case was consolidated for purposes of appeal with Charles Sisney's case, *Sisney v. Reisch*, Civ.03-

4260, this Judgment is entered only in Van Wyhe's case; the Court will issue a separate order addressing trial of Sisney's remaining claims.

Accordingly, it is hereby ORDERED, ADJUDGED, AND DECREED that Plaintiff's case is DISMISSED with prejudice, on the merits, with Plaintiff taking nothing thereunder.

Dated this 10th day of November, 2009.

BY THE COURT:



Lawrence L. Piersol
United States District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY: Summer Wyhe
DEPUTY